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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte HOSSEIN RAHNAMA

Appeal 2016-003668
Application 14/231,378
Technology Center 2100

Before ROBERT E. NAPPI, LARRY J. HUME and CATHERINE SHIANG, *Administrative Patent Judges*.

SHIANG, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1–22 and 27–35, which are all the claims pending and rejected in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

STATEMENT OF THE CASE

Introduction

According to the Specification, the disclosed and claimed inventions relate to zone technologies. *See generally* Spec. 1. Claim 1 is exemplary:

1. A zone management monetization system:

a zone management interface programmed to enable different zone managers to define different zone objects, wherein each zone object is a digital representation of a zone and has zone context criteria defined according to a plurality of zone attributes within a multi-dimensional zone attributes space;

a zone management server computer coupled with the zone management interface and programmed to:

assign different monetary values to different ranges along each dimension of the multi-dimensional zone attribute space, the dimensions representing aspects of the multi-dimensional zone attribute space;

upon receiving a definition of a zone object via the zone management interface, calculate a zone value that represents a net worth of the zone object as a function of the monetary values assigned to the different ranges along the dimensions and the plurality of zone attributes; and

enable a transaction with the zone manager over the zone management interface as a function of the zone value.

References and Rejections

Claims 1–22 and 27–35 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1–3, 6–22, and 27–35 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Robinson (US 2007/0285280 A1; published Dec. 13, 2007) and Peeters (US 2011/0131238 A1; published June 2, 2011).

Claims 4–5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Robinson, Peeters, and Boss (US 2011/0087524 A1; published Apr. 14, 2011).

ANALYSIS

35 U.S.C. § 101

Claim 1 recites: "A zone management monetization system: a zone management interface . . . ; a zone management server computer . . . ." Claim 1. The Examiner finds each of the claimed "zone management interface" and "zone management server computer" could be software, and claim 1 could be directed to unpatentable software *per se*. *See* Final Act. 3; Ans. 3–4.

As discussed below, Appellant has not persuaded us of error.

"Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title." 35 U.S.C. § 101. Further, software *per se* does not comply with 35 U.S.C. § 101 because "[a]bstract software code is an idea without physical embodiment." *Microsoft Corp. v. AT&T Corp.*, 550 U.S. 437, 449 (2007); *see also* MPEP § 2106 (I) (a computer program per se is ineligible under 35 U.S.C. § 101 (citing *Gottschalk v. Benson*, 409 U.S. 63, 72 (1972)).

First, with respect to the claim element "zone management interface," Appellant initially cites paragraphs 49 and 54 of the Specification. *See* App. Br. 2. However, neither paragraph is on point because neither discusses whether the claimed zone management interface could not be merely software. Appellant also cites paragraphs 58 and 113 of the Specification (App. Br. 5), but as pointed out by the Examiner, neither paragraph states the claim element could not be merely software. *See* Ans. 3. Appellant further argues although the claimed zone management interface could comprise

software, it must be embodied on a physical computer device. *See* App. Br 5. That argument is unpersuasive, as the claim does not recite any physical computer device.

Second, with respect to the claim element "zone management server computer," Appellant cites Figure 4 of the Specification and a Specification excerpt, which states "computing devices comprise a processor configured to execute software instructions stored on a tangible, non-transitory computer readable storage medium . . . ." *See* App. Br. 4. The Examiner correctly finds neither Figure 4 nor the Specification excerpt shows the zone management server computer could not be merely software. *See* Ans. 3. Appellant further argues even if the claimed zone management server computer is a virtual software computer, it must be embodied as software instructions executed by a physical processor. *See* App. Br. 5. But that argument is unpersuasive, as the claim does not recite any physical processor.

Because Appellant has not persuaded us of error, we sustain the Examiner's rejection of claim 1, and corresponding dependent claims 2–22 and 27–35 under 35 U.S.C. § 101.

Obviousness

We have reviewed the Examiner's rejections in light of Appellant's contentions and the evidence of record. We concur with Appellant's contention that the Examiner erred in finding Robinson teaches "a zone management interface programmed to enable different zone managers to

define different zone objects, wherein each zone object is a digital representation of a zone," as recited in claim 1. *See* App. Br. 9–11.[1]

The Examiner maps the claimed "zone management interface" to Robinson's cellular carrier, and cites Robinson's Figure 1, Abstract, and paragraphs 32 and 33 for teaching the disputed claim limitation. *See* Final Act. 4; Ans. 6–7. We have examined the cited Robinson portions, and they do not discuss "a zone management interface programmed to enable different zone managers to define different zone objects, wherein each zone object is a digital representation of a zone," as required by the claim. *See* App. Br. 9–11. Absent further explanation from the Examiner, we do not see how the cited Robinson portions teach the disputed claim limitation.

Because the Examiner fails to provide sufficient evidence or explanation to support the rejection, we are constrained by the record to reverse the Examiner's rejection of claim 1 under 35 U.S.C. § 103. We also reverse the Examiner's 35 U.S.C. § 103 rejection of dependent claims 2–22 and 27–35, which depend from claim 1.

DECISION

We affirm the Examiner's decision rejecting claims 1–22 and 27–35 under 35 U.S.C. § 101.

We reverse the Examiner's decision rejecting claims 1–22 and 27–35 under 35 U.S.C. § 103.

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[1] Appellant raises additional arguments. Because the identified issue is dispositive of the appeal with respect to the obviousness rejections, we need not reach the additional arguments.

Because we have affirmed at least one ground of rejection with respect to each claim on appeal, we affirm the Examiner's decision. *See* 37 C.F.R. § 41.50(a)(1) (2012).

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED